

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF &
APPENDIX**

74-2636

King

Appellant

B

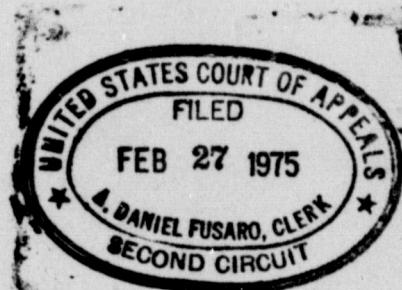
v

U.S. Civil Service
Commission & Mr
Maurice Etzell ESQ.

Appellee

P/S

Brief and
Appendix



Re, Brief Resort: 74-2636 U.S.C. of A

PAGINATION AS IN ORIGINAL COPY

CIVIL APPEAL PRE-ARGUMENT STATEMENT

(To be filed by appellant with Clerk of Court of Appeals and served on other parties within ten days after filing notice of appeal.)

CASE TITLE (Complete)

KING

PLAINTIFF

V

THE UNITED STATES CIVIL SERVICE COMMISSION

DEFENDANT

(Attach additional sheets if space is not sufficient)

APPEAL FROM DISTRICT COURT

DISTRICT ▶ EASTERN *-New York -
DISTRICT COURT DOCKET NUMBER ▶ 72-CVIL- 914 EDNY
DATE FILED IN DISTRICT COURT ▶ MO. DAY YEAR
JUL 7 1972
DATE NOTICE OF APPEAL FILED ▶ December 2, 1974
RELATED CASE(S) ▶ 74-2-542 EDNY

Is this a cross appeal:

YES

NO

COUNSEL NAME
FOR APPELLANTS:

ADDRESS

TELEPHONE

Pro Se/ Atty. John Edmonds 500 Fifth Ave.
(Interim atty.) 56th floor
NY, NY.
surrogate (Atty.) B.V. Lawson, Jr. ESQ.

A.C. 212
354 0363

FOR APPELLEES:

Deft: Deponent are presently
United States District Attorney-For The Eastern District of New York

(Check One Box Only)

NATURE OF SUIT

CONTRACT	TORTS	ACTIONS UNDER STATUTES			
		CIVIL RIGHTS	FORFEITURE/PENALTY	PROPERTY RIGHTS	OTHER STATUTES
<input type="checkbox"/> INSURANCE	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> VOTING	<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> COPYRIGHT	<input type="checkbox"/> TRADEMARK
<input type="checkbox"/> MARINE	<input type="checkbox"/> AIRPLANE	<input type="checkbox"/> JOBS	<input type="checkbox"/> FOOD & DRUG	<input type="checkbox"/> PATENT	
<input type="checkbox"/> MILLER ACT	<input type="checkbox"/> ASSAULT, LIBEL & SLANDER	<input type="checkbox"/> ACCOMMODATIONS	<input type="checkbox"/> LIQUOR LAWS	<input type="checkbox"/> STATE RE APPOINTMENT	<input type="checkbox"/> AGRICULTURAL ACTS
<input type="checkbox"/> NEGOTIABLE INSTRUMENT	<input type="checkbox"/> FEDERAL EMPLOYEE LIABILITY	<input type="checkbox"/> WELFARE	<input type="checkbox"/> R.R. & TRUCK	<input type="checkbox"/> ANTI-TRUST	<input type="checkbox"/> ECONOMIC STABILIZATION ACT
<input type="checkbox"/> RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	<input type="checkbox"/> MARINE	<input type="checkbox"/> OTHER CIVIL RIGHTS	<input type="checkbox"/> AIR LINE REGS	<input type="checkbox"/> BANKRUPTCY TRUSTEE	<input type="checkbox"/> ENVIRONMENTAL MATTERS
<input type="checkbox"/> OTHER CONTRACT	<input type="checkbox"/> MOTOR VEHICLE	<input type="checkbox"/> PRISONER PETITIONS	<input type="checkbox"/> OTHER	<input type="checkbox"/> BANKS AND BANKING	<input type="checkbox"/> CONSTITUTIONALITY OF STATE STATUTES
	<input type="checkbox"/> OTHER PERSONAL INJURY	<input type="checkbox"/> VACATE SENTENCE (2251)	<input type="checkbox"/> LABOR	<input type="checkbox"/> COMMERCE ICC RATES, ETC.	<input type="checkbox"/> DEPORTATION
REAL PROPERTY	PERSONAL PROPERTY	<input type="checkbox"/> PAROLE AND REVIEW	<input type="checkbox"/> FEDERAL STANDARDS	<input type="checkbox"/> SELF-DEFENSE	<input type="checkbox"/> SOCIAL SECURITY
<input type="checkbox"/> CONDEMNATION	<input type="checkbox"/> FRAUD	<input type="checkbox"/> HABEAS CORPUS	<input type="checkbox"/> LABOR/MGMT. RELATIONS	<input type="checkbox"/> SECURITIES EXCHANGE	<input type="checkbox"/> TAX SUITS
<input type="checkbox"/> FORECLOSURE	<input type="checkbox"/> OTHER PERSONAL PROPERTY DAMAGE	<input type="checkbox"/> MANDAMUS	<input type="checkbox"/> LABOR/MGMT. REPORTING & DISCLOSURE ACT	<input type="checkbox"/> OTHER STATUTORY ACTIONS	
<input type="checkbox"/> RENT LEASE & EJECTMENT		<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> RAILWAY LABOR ACT		
<input type="checkbox"/> TORTS TO LAND			<input type="checkbox"/> OTHER LABOR LITIGATION		
<input type="checkbox"/> ALL OTHER REAL PROPERTY					

METHOD OF DISTRICT COURT DISPOSITION

Judgment before trial: Summary Judgment ☐ Prisoner petition: Granted ☐
Dismissal ☒ Denied ☐
Other ☐

Judgment during or after trial: Court trial ☒ Injunction: Granted ☐
Jury trial ☐ Denied ☒
During trial ☐

Appeal from order: Preliminary injunction ☒ Damages: Granted ☐
Class action ☒ Amount \$
Amend answer ☐ Denied ☐
Enforce settlement ☐ Other relief (specify) ☐
Counsel fees ☐
Stay ☐
Other ☐

APPROXIMATE SIZE OF RECORD ▶ 15 pages

NUMBER OF EXHIBITS ▶ 4

HAS TRANSCRIPT BEEN MADE ?

YES

NO

BRIEF DESCRIPTION OF NATURE OF CASE AND RESULT BELOW:

Appeal notice is based on Rule 5:1 U.S. Federal Procedure, Stat. 1937 et. al., and legal precedences of the equal protection: Due process clauses as these relate to the 14th U.S. Constitutional Amendment.

An Appellate writ (Habeas) Defacto in nature is at cause of action. US Government reinstatement is suppressed. (double jeopardy)
An interlocutory Mandamus is required

ISSUES PROPOSED TO BE RAISED ON APPEAL:

A clarification of the Tucker Amendment per se.
Acertiorari "Doctrine of Laches" and its validity in this cause of action.

Citation of U. S. Civil Service Laws as applicable in this cause of action.

The Equal protection: Due process Clauses of the 14th United States Constitutional Amendment.

I, Attorney for the Appellant, hereby certify that satisfactory arrangements have been made with the court reporter for payment of the cost of the transcript (FRAP 10 (b)). (Check one box)

☐ (1) have already ordered the transcript to be prepared OR

☒ (2) will order it to be prepared at the time required by the Staff Counsel in the implementation of the Civil Appeals Management Plan.

COUNSEL'S SIGNATURE

James M. King, Jr. Pro Se

DATE

King

Appellant

v

United States

Civil Service Commission

+ Mr. Maurice Etzell Esq.

Appellees

74 - 2636 U.S.C of A

Brief Appendix: U.S. Appellate
Procedural - Rules 11, 31, 32 + 30 -
Stat of 1983; 28 U.S.C 1915 et.al.

72C 914

DATE	FILINGS—PROCEEDINGS <i>Index of Appeal</i>	AMOUNT REPORTED IN EMOLUMENT RETURNS
7/7/72	Complaint filed. Summons issued.	1JS5
7-17-72	Summons rtd & filed. Deft srvd 7-10-72.	2
7/27/72	Copy of complaint & annexed letter of plttf dtd 7/25/72 & attachment filed.	3
7-28-72	Plttf's motion for an examiner's hearing within 30 days etc. filed.	4
7-31-72	Copy of exhibit filed.	5
8-9-72	Affidavit of James G. King, Jr. filed.	6
8/17/72	Copy of plttf's application re: adjudication filed.	7
9-5-72	Copy of letter with exhibits filed.	8
9-7-72	Rule 6(b) application filed.	9
9-7-72	By BARTELS, J.- Order dtd 9-6-72 filed, extending time for deft to answer complaint to 10-9-72.	10
10/10/72	Notice of motion & memo of law ret 11/24/72 for an order dismissing complaint filed.	11/12
10/12/72	Copy of letter dtd 12/9/65 from Sonia Pressman filed.	13
10/12/72	Copy of letter dtd 2/2/66 from J.T. Burns, Jr. filed.	14
10/13/72	(Copy) Supplemental papers filed.	15
10/16/72	Certified copy of civil service commission appeal file filed.	16
10/25/72	Copy of student transcript of plttf filed.	17
11/6/72	Motion to clarify proceedings filed.	18
11/9/72	Plttf's suppl. papers (copies) filed.	19
11/10/72	Plttf's memo of law filed.	20
11/16/72	Plttf's xeroxed copy of returned mail (2pieces)	21
11/22/72	Before Bartels, J.-Case called & adj'd to 12/15/72 for hearing on deft's motion to dismiss.	
12/15/72	Cross-motion for summary judgment to plttf filed.	22
12/15/72	Before Bartels, J Case called & adj'd to 1/5/73 for hearing on deft's motion to dismiss	
12/22/72	Affidavit of plttf filed	23
1-2-73	Three page instrument filed.	24
1/5/73	Before Bartels, J.-Case called for hearing on deft's motion to dismiss-Motion granted with leave to amend complaint-Order to be submitted	
1/5/73	Amended complaint filed Additional summons issued	25
1/8/73	Plttf's affidavit filed.	26
1/9/73	Additional summons returned & filed/executed	27

3 72C914 JAMES G KING, JR v. THE UNITED STATES CIVIL SERVICE COMMISSION,
CIVIL DOCKET

DATE	FILINGS-PROCEEDINGS	CLERK'S FEES		A RE P E M C R I
		PLAINTIFF	DEFENDANT	
1/22/73	By Bartels, J.-Order of dismissal dtd 1/19/73 filed (P/C mailed to attys) (94)			28
3-13-73	Case reopened.			31
3-13-73	Copy of letter from plttf dtd 3-10-73 filed.			29
3-13-73	Copy of plttf's notice for summary judgment filed.			30
3-27-73	Plttf's service summary record filed.			31
5-15-73	Copy of letter from Dept of Treasury dtd 5-10-73 filed.			32
5-25-73	Copy of letter dtd 5-22-73 from plttf filed.			33
6-6-73	Copy of PS Form 1510 filed.			34
6-6-73	Instrument filed.			35
6/6/73	Instrument filed.			36
6-7-73	Copy of letter from Sonia Pressman with annexed instrument filed.			37
6-15-73	Defacto summary:Status report format filed.			38
6-15-73	Before BARTELS, J. - Case called. Status report set down for 7-17-73 at 9:30 A.M.			39
6-18-73	Letter from plttf dtd 5-22-73 for summary judgment filed.			40
7-10-73	Status report:Writ of inquiry filed.			41
7-10-73	Two student records from Fisk University filed.			42
7-12-73	Copy of Letter letter from Durward M. Taylor dtd 8-31-72 with annexed memorandum filed.			43
7-12-73	Copy of record of NYC Bureau of Tuberculosis filed.			44
7-13-73	Copy of LaGuardia Medical Group report of plttf dtd 7-13-73 filed.			45
7-17-73	Copy of letter from Zelman and Zelman dtd 7-13-73 filed.			46
9-7-73	Copy of letter from M. Ruppenthal dtd 9-4-73 filed.			47
9-7-73	Copy of National Teacher Examination Scores filed.			48
9-10-73	Copy of letter from James G. King. filed.			49
9-11-73	Instrument filed.			50
9-13-73	Matigram from King to Judge Bartels filed.			51
9-14-73	Receipts from King filed.			52
9-19-73	Before BARTELS, J. Case called-Status report set down for 10-1-73 @ 9:30 AM			53
9/24/73	Before BARTELS, J.- Case called-Status Report set down for 11/9/73 at 9:30 A.M.-All motions by that date.			54
10-10-73	Stenographer's transcript dtd 1-5-73 filed.			55
10-15-73	Letter of Lohn L. Edmonds, atty for plttf. dtd 10-12-73			56

DATE	FILINGS-PROCEEDINGS	CLERK'S FEES		AMOUNT REPORTED IN EMOLUMENT RETURNS
		PLAINTIFF	DEFENDANT	
	re: filing of a complaint pursuant to the directions of the Court on 9-24-73 filed.			54
10-15-73	Complaint filed.			55
10-17-73	Letter from Frederick Cirlin dtd 10-12-73 filed.			56
11-2-73	Copy of release of levy filed.			57
11-2-73	Copy of notice of levy filed.			58
11-9-73	Before BARTELS, J. - Case called. Pltff not present. Order of dismissal signed. (copy mailed to pltff).			59
11-9-73	By BARTELS, J. - Order of dismissal dtd 11-9-73. Dismissal may be vacated within 30 days if pltff submits affidavits for valid excuse for failure to appear, etc. filed.			60
11-19-73	Affidavit of John L. Edmonds in support of pltff's application to vacate the dismissal for failure to appear for a pretrial status report filed.			61
12-3-73	Stipulation extending time for defts to answer or otherwise XXXXXX respect XXXX extended complaint XXXX ordered by J. BARTELS XXXX XX XX XX XX			
12-3-73	Stipulation extending time for defts to answer to amended complaint. So ordered by J. BARTELS dtd 12-3-73 filed.			62
12/13/73	Before BARTELS, J. - Case called- Pltff's motion to reopen- granted-Order to be submitted-Govt's Answer to be submitted within 60 days (2/14/74)-Status Report set down for 2/14/74			
1/18/74	By BARTELS, J. - Order of Restoration filed (Order dated 1/16/74			63
2-14-74	Before BARTELS, J. - Case called. Status report set down for 3-26-74 at 9:30 am.			
3-6-74	Copy of subpoena from NY State Tax Collector filed.			64
3-18-74	Telegram from pltff dtd 3-16-74 filed.			65
3/26/74	Before BARTELS, J. - Case called- Status report set down for 5/31/74			
5-2-74	Letter dtd 4-29-74 from James E. King to Erwin Popkin filed.			66
5/31/74	By BARTELS, J. - Case called- Pre-trial conference set down for 7/30/74			
8-5-74	Copy of letter dtd 8-1-74 from Carl I. Stewart to John L. Edmonds filed			67

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2 (Following oral argument which was not
3 requested to be recorded, the Court made the
4 following decision:)

5 THE COURT: The plaintiff, James G. King,
6 Jr., in his third amended complaint, is seeking
7 damages from and also re-employment by the defen-
8 dants, the United States Civil Service Commission
9 and several of its administrators, for his wrongful
10 discharge from employment and for their erroneous
11 classification, as "ineligible", his applications
12 for re-employment. Jurisdiction is based solely
13 on the Tucker Act, 28 U.S.C. Section 1346(a) (2).
14 The defendant moves for dismissal of the complaint
15 pursuant to Rule 12(b) of the Federal Rule of Civil
16 Procedure on the grounds that this court lacks
17 subject matter jurisdiction in that the action was
18 not commenced within the applicable six year limi-
19 tations period and also on the further ground that
20 it is barred by laches on the part of the plaintiff.

21 On September 4, 1964 the plaintiff was hired
22 as a chemist by the United States Patent Office on
23 a one-year trial or probation basis. At the end of
24 this probationary period, on September 3, 1965, his
25 employment was terminated because of a lack of

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2 aptitude for interpreting and understanding patent
3 disclosures. The plaintiff obtained an agency
4 transfer to the Bureau of the Mint but on January
5 8, 1966, this employment was terminated for his
6 inability to meet the minimum output quantity
7 standards. He appealed this initial termination
8 of employment to the Appeals Examining Office on
9 November 26, 1965 and to the Board of Appeals on
10 March 16, 1966, both of which were denied on the
11 dates indicated. Thereafter, the plaintiff sub-
12 mitted an application to the defendant for further
13 employment but on May 23, 1966 he was rated ineli-
14 gible pursuant to the provisions of Civil Service
15 Regulation 731.201, because of his recent dis-
16 charges from similar positions for unsatisfactory
17 service. On July 12, 1966 this decision was reversed
18 and he was granted an "eligible" rating.

19 Concerning the defense of the Statute of
20 Limitations, this suit was initially filed on July
21 7, 1972. Section 2401(a) of Title 28 of the
22 United States Code provides that "every civil action
23 commenced against the United States shall be barred
24 unless the complaint is filed within six years after
25 the right of action first accrues." This limitations

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2 period has been applied to the Tucker Act, 28 U.S.C.
3 Section 1346(a) (2), and has been held to deprive
4 the court of jurisdiction to hear any claim barred
5 by 28 U.S.C. Section 2401(a). United States v.
6 One 1967 Chevrolet Impala Sedan, 457 F.2d 1353
7 (5th Cir. 1972); Crown Coat Front Co., Inc. v.
8 United States, 363 F.2d 407 (2d Cir. 1966),
9 reversed on other grounds, 386 U.S. 503 (1967).
10 King exhausted all of his administrative remedies
11 with regard to his termination of employment on
12 March 16, 1966 when his appeal was denied. Since
13 that time six years and four months elapsed before
14 he filed this action and accordingly any claim which
15 he now makes by reason of this termination of employ-
16 ment is clearly barred by the statutory limitation.

17 The plaintiff, however, also bases his claim
18 for relief on the alleged initial wrongful classifi-
19 cation of his application for re-employment made in
20 May, 1966, stating that he was ineligible, even
21 though this classification was subsequently reversed.
22 Since his administrative remedies were apparently
23 not exhausted as to this claim until the reversal
24 on July 12, 1966, five days before the running of
25 the limitations period, it is not barred by 28 U.S.C.

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2 Section 2401(a). This action, however, is in all
3 probability barred by the plaintiff's laches.
4 Whether or not it is barred by the doctrine of
5 laches is a question which this court need not
6 reach. Although King concluded that the erroneous
7 classification violated, in some nebulous fashion,
8 his constitutional rights, it is clear that the
9 Tucker Act, 28 U.S.C. Section 1346(a)(2), upon
10 which he relies, does not confer upon this court
11 original jurisdiction to review administrative
12 actions and after review to award relief in the
13 form of compelling the government to reinstate the
14 plaintiff or to pay damages for back wages because
15 of allegedly wrongful administrative action. Author-
16 ities strictly in point are Love v. United States,
17 108 F.2d 43 (8th Cir. 1939); See also Gnota v.
18 United States, 415 F2d 1271, 1277-8 (8th Cir. 1969);
19 DiBattista v. Swing, 135 F. Supp. 938 (D.Md. 1955).

20 Consequently, this complaint must be dis-
21 missed for lack of jurisdiction.
22
23
24 * * * * *
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UNITED STATES COURT OF APPEALS

X

JAMES G. KING, JR.

APPELLANT

VS

THE UNITED STATES CIVIL SERVICE
COMMISSION AND MR. MAURICE ETZELL ESQ.

APPELLEES

X

BRIEF NOTICE: RESORT

CC 74-2636 U.S. Court of Appeals-second circuit
NEW YORK STATE

PRO SE JAMES G. KING, JR.
FROM THE INSTANCE OF 72-C-914 EDNY

APPENDIX: 74-2636 United States Court of
Appeals-NYS
FORMERLY
72-C-914 EDNY

PAGE 1 STATEMENT OF RESORT

PAGE 2 ELEMENT I. R. BRIEF
(id 1-7)

PAGE 3 ELEMENT II. R. BRIEF
(id 8-12)

PAGE 4 ELEMENT III. R. BRIEF
(2/12/75)

STATEMENT OF RESORT PRO SE

SIRS:

PLEASE TAKE NOTICE THAT I, THE APPELLANT TO CAUSE OF ACTION IN THIS INSTANCE, DO QUOTE THE HONORABLE J.R. BARTELS AN IMMINENT AND ABLE JURIST, WHOSE HUMANE:ETHICAL CHARACTER IS UNQUESTIONED-

" Although King concluded that the erroneous classification violated, in some nebulous fashion, his constitutional rights, it is clear that the Tucker Act, 28 U.S.C Section 1346 (a) (2), upon which he relies, does not confer upon this court original jurisdiction to review administrative action and after review to award relief in the form of compelling the government to reinstate the plaintiff or to pay damages for back wages because of allegedly wrongful administrative action."

Thus I the undersigned James G. King, Jr.
James G. King, Jr.

Pro se, in accordance with provisions of Rule 12(b) of the Federal Rules of Appellate Procedure: Rules 30, 31 and 32 of the Federal Rules of Appellate Procedure enter Element I. as evidence per se.

ELEMENT I
(RESORT)

IT IS HELD AS LEGAL CAUSE- that if a full and fair trial on the Assertions is provided , the Due Process Clause of the Fourteenth Amendment does not require a State to provide Appellate Review.

"Griffin V Illinois, 351 U.S. 12,18,76 s.ct. 585, 590,100 L.Ed, 891 (1956) 1d 1

"District Of Columbia V Clawans, 300 U.S. 617,627 57 s.ct. 660, 663, 81 L.Ed. 843 (1957) 2

Ohio ex rel. Bryant V Akron Metropolitan Park District, 281 U.S. 74,80,50 s.ct. 228,230,74 L.Ed. 710 (1930) 3

Reetz V Michigan, 188 U.S. 505,508, 23 s.ct.390,392,47 L.Ed. 563 (1903) 4

McKane V Durston, 153 U.S. 684,687-688,14 s.ct. 913, 914-915, 38 L. Ed. 867 (1894)." 5

THE EQUAL OPPORTUNITY:EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION- When appellate action is induced, however, it cannot be granted to some parties and capriciously or otherwise denied others without violating the Equal Protection Clause.

Coppedge V United States.,369 U.S. 438,82 s.ct. 917, 8 L.Ed. 2d 21 (1958). 6

Ellis V United States., 356 U.S. 674,78 s.ct. 974, 2L. Ed. 2d 1060 (1962) 7

ELEMENT II
CAUSE (DEFACTO)

QUOTING FROM THE RECORD OF 72C-914 EDNY-

"On September 4, 1964 the plaintiff was hired as a chemist by the United States Patent Office on a one-year trial or probation basis. At the end of this probationary period, on September 3, 1965, his employment was terminated because of a lack of aptitude for interpreting and understanding patent disclosures. The plaintiff obtained an agency transfer to the Bureau of the Mint but on January 8, 1966, this employment was terminated for his inability to meet the minimum output quantity standards." id

IN U.S. V O'BRIEN 381 U.S. 367, 383, 88 s. ct. 1673, 1682, 20 L.Ed. 2d 672 (1968), "WHERE THIS COURT REJECTED THE ARGUMENT THAT A DEFENDANT COULD NOT BE PUNISHED FOR BURNING HIS DRAFT CARD BECAUSE CONGRESS HAD ALLEGEDLY PASSED THE STATUTE TO STIFLE DISSENT." 8

RESORT: Prima facie Exhibits of 72-C-914 EDNY now 74-2636 United States Court of Appeals-NYS. 9

A program is not permissible if it denies rights created or protected by the Constitution-The instant case in point is reflected in Buchanan V Warley, 245 U.S. 60, 81, 38 s. ct. 16, 20, 62 L.Ed. 149. 10

"CONSTITUTIONAL RIGHTS MAY NOT BE DENIED SIMPLY BECAUSE OF HOSTILITY TO THEIR ASSERTION"- Watson V City of Memphis, 373 U.S. 526, 83 s. ct. 1314, 10 L. Ed. 2d. 529 (1963)- Id at 535, 83 s. ct. at 1319. 11

In conclusion 42 U.S. C § 1983 is not subject to an implied State Action Limitation-thus racially motivated conspiracies or activities would be actionable under this code at the instant tort.

Note: The Fisk University-Nashville, Tenn. is a Negro (Federal) Land Grant University.

I am proud to be A Negro American (the above issue by plaintiff).

Cf. 72-C-914 EDNY now Evidence: Proceedings of Appellate Action-74-2636 United States Court of Appeals-NYS at ct. 41 and 42 of 72-c-914 Edny. Record of Appeal-Rule 11 mandate. 12

ELEMENT III

SIRS PLEASE TAKE NOTICE, that I the undersigned

James B. King, Jr. Pro se, pursuant to
James G. King, Jr.

Civil Service Regulation 731.201 and cognizant of its limitations and implications did in fact request a literature search in order to ascertain a legal instance at law wherein the Ramspeck Act now in fact the United States Civil Service Act upheld a Civil Service transfer of a litigant after his termination, without first reinstating the litigant.

- It is noted that any exceptions to the above were accomplished per waiver.-

UNDER PROVISIONS OF RULE 12(b), 30, 31 and 32 of the Federal Rules Of Appellate Procedure-please require the Appellee to produce such waiver in this cause. (ct., id 1-5 and 6-10) for justification.

EVIDENCE UNDER RULE 11-U. S. Appellate Procedure:
APPELLATE ACTION AT 74-2636, 1 JS5, ct. 13, 14, 41 & 42.
Cf. Proceedings: Evidence under Rule 11-U. S. ct. 16, at (pages 1-99), Also the Status Report in this Appellate Action et. al..

King
Appellant

v

The United States
Civil Service Commission
+ Mr. Maurice Etzellesq
Appellee

Re. Cause of Action
74-2636 U.S.C of A.

State of New York - EDNY
21, S. Appellate Division - Second Circuit

Being duly sworn, Says: That I am the Appellee
(Pro se) a party to this action, and that on the
25th Day of February 1975, I served a copy
of the Brief Appendix; Brief Report on the
Respondent; Appellee via Certified Mail at
His principal place of Business, To wit:

<u>Name</u>	<u>address</u>	<u>Attorney</u>
Mr. Maurice Etzell	United States Civil Service Commission; Division of Programs/ Evaluation Washington, D.C. 20025	U. S. Civil Service Commission, Court et al



James H. King Jr.